



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

TONY OLIVEO MACK,
Plaintiff,

vs.

LT. MCMILLAN and SIMON MAJOR, JR.,
Director,
Defendants.

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CIVIL ACTION NO. 4:05-3540-HFF-TER

ORDER ADOPTING THE REPORT AND RECOMMENDATION OF THE
MAGISTRATE JUDGE

This case was filed as a Section 1983 action. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that Defendants' motion for summary judgment be granted. The Report is made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on December 7, 2006. The parties failed to file any objections to the Report.* In the absence of objections, the Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standards set forth above, the Court adopts the Report and incorporates it. Therefore, it is the judgment of this Court that Defendants' motion for summary judgment be **GRANTED**.

IT IS SO ORDERED.

Signed this 27th day of December, 2006, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

*The Court notes that Plaintiff is likely unaware of the Report since, on December 21, 2006, Plaintiff's copy of the Report was returned to the Clerk of Court, marked "I/M NOT HERE. . . . RETURN TO SENDER . . . NOT DELIVERABLE AS ADDRESSED, UNABLE TO FORWARD[.]" In light of the record in this case, however, and Plaintiff's failure to keep the Court apprised of his current mailing address as explicitly directed to do so in the Court's February 14, 2006, Order, the Court will dispose of the case today without further delay.